

EXHIBIT 5

Aug. 15, 2024 Fairfax County Electoral Board Minutes

MINUTES
Fairfax County Electoral Board
August 15, 2024

The Fairfax County Electoral Board (Board) met on Thursday, August 15, 2024, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Hon. Katherine K. Hanley; Vice Chairman Jeffrey K. Shapiro; Secretary Amb. (ret.) Christopher P. Henzel; General Registrar Eric L. Spicer; Deputy Director Cheryl Jones; and Clerk to the Electoral Board Beth Dixon Methfessel were present.

Election Manager Ravi Udeshi; Deputy Registrar for Voter Registration Bushra Ardalan; Deputy Registrar for Absentee Voting Sean Stewart; Voting Equipment and Logistics Manager Tyrone Allen; Training and Operations Manager Sean Rogers; Election Officer Manager Gretchen Coleman; Supply Manager Kay Garrison; IT Business Analyst George Panagakos; Bill Turley ((Office of Elections (Office) staff); Christine Brim (Fairfax County Republican Committee (FCRC) Election Integrity Task Force); Patricia O'Brien and Barbara Palmer-Tengs (members FCRC); Judith Helein and Maggi Luca (League of Women Voters (LWV) – Fairfax); and Laurel May (Fairfax County election officer and/or resident of Fairfax County).

The following individuals participated using the Zoom videoconferencing platform: Human Resources Manager Yoon Choi-Lee; Deputy Registrar for Voter Satellite Offices Florence Brown; Financial Specialist Teresa Maza; Office staff and/or rovers Nazila Arefi, Steve Barch, Judy Clardy, Ann Hines, Lisa Hogle, B. Gissell Jimenez, Gary Klinger, Abigale Peters, Todd Strelow, Jerald Taylor, Jean Thoensen, and Fily Vilasanta; Maria Vorel (FCDC Precinct Operations); Megan Challender (FCDC Election Law and Voter Protection); Arina van Breda (Director, Voter Registration and Voter Information LWV - Fairfax); and Mark Beale, Phyllisa Goldenberg, and Claudia Stallings (Fairfax County election officers and/or residents of Fairfax County or neighboring jurisdictions).

Ms. Hanley called the meeting to order at 4:00 p.m. and introduced the Board. Mr. Shapiro moved approval of the agenda, and the motion passed by a vote of 3-0.

Mr. Henzel moved to adopt the Draft Minutes of the Board meetings held on June 10, 2024, and June 19, 2024. By a vote of 3-0, the Minutes of the Board meetings held on June 10, 2024, and June 19, 2024, were adopted.

Mr. Shapiro made a motion to appoint 377 election officers (EO) (150 Democrats, 96 Republicans, and 131 Unaffiliated) for a term ending February 28, 2025. The motion passed by a vote of 3-0.

Under the General Registrar's (GR) report dated August 13, 2024 (attached and made a part of this record), Ms. Jones presented the General Registrar's report and updated the voter registration numbers since the last Electoral Board meeting:

Voter Registration

Registered Voters	As of 6/1	As of 7/31	Change from 5/31
Active Registered Voters	736,461	723,604	-12,857
Inactive Registered Voters	64,426	81,087	+16,661
Total	800,887	804,691	+3,804

Active Voter Registration Subtractions (Cancellations and Transfers Out)	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
Deceased (multiple sources) ¹	1,086	3,111
Out-of-State (multiple sources) ²	2,613	4,029
Declared Non-Citizen (from ELECT)	46	182
Declared Mentally Incapacitated (from Court)	12	35
Felony Conviction (from ELECT)	9	104
Voter Request (paper form from voter)	81	223
Transfer Out to Another Jurisdiction in VA	3,738	10,835
Other Subtractions (administrative error, other)	12	37
Total Cancellations and Transfers	7,597	18,556

Active Voter Registration Additions	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
New Voter Registrations (multiple sources)	7,663	23,740
Transfer In from Another Jurisdiction in VA	3,695	9,535
Other Additions (reactivated, reinstated, other)	1,680	3,780
Total	13,038	37,055

Voter Registration Transactions³ (includes transactions that result in additions, subtractions, and no change)	6/1 – 7/31	Year-to-Date 2024 (1/1 to 7/31)
Online DMV (from ELECT)	43,213	123,159
Online Citizen Portal (from ELECT)	8,852	17,981
Online Third-Party DMV Verified (from ELECT)	660	1,297

Va. Paper Form Third Party (delivered to the office)	437	3,439
Va. Paper Form In-Person (office walk-ins, new citizen ceremonies, at polling locations)	339	1,092
Va. Paper Form by Mail (delivered to the office)	604	1,965
Federal Post Card Application (multiple sources)	1,007	1,725
National (EAC) Paper Form (delivered to the office)	174	436
Same Day Registration (office or voting locations)	229	1,301

¹ Deceased (multiple sources) includes: Bureau of Vital Statistics through ELECT, Report of Death information provided by relative, Death Certificate provided, and General Registrar Report of Death created based on an obituary

² Out-of-State (multiple sources) includes: DMV, State mail, NCOA, and other voter registration update forms

³ All categories include: new voter registrations, change of address, change of name, voter cancellations (including out-of-state), and duplicates (no change of data)

Ms. Ardalan confirmed for Ms. Hanley that the same day registrations from the June primary elections are included in the current voter registration numbers. Ms. Ardalan indicated that 174 applications were submitted from federal agencies and 604 from state agencies in response to Mr. Henzel's query as to the number of voter registration applications received outside of DMV. Mr. Henzel expressed concern over the ease of acquiring an FCPA and suggested that any spikes in the number of these registrations should be monitored. Mr. Shapiro agreed and commented that the breakdown of the sources of voter registrations is more useful and user-friendly.

The Department of Elections (ELECT) sent a National Confirmation of Address (NCOA) mailing to 23,281 Fairfax County voters on June 10, 2024. As of August 12, the Office received a total of 6,501 pieces of mail from the confirmation mailing, including 3,293 pieces returned undeliverable and 3,208 responses from voters that required action. A total of 16,231 voters were changed to an "Inactive" status because their confirmation mailing was returned undeliverable, or they did not respond within 30 days. The NCOA mailing not only affects registration, but also the permanent absentee list. Voters on the permanent absentee (PAB) list who did not respond within the 30-day requirement were removed. Based on this legal requirement, staff manually cancelled 912 permanent absentee applications. If a forwarding address was available, staff sent an additional address confirmation request to the voter.

As of August 12, 68,137 absentee ballot applications have been approved for the November 2024 General and Special Elections (November General Election). This includes 59,482 permanent applications, 3,144 applications from overseas and military voters, and 5,511 one-time applications. Ms. Jones confirmed for Mr. Shapiro that voters either request to be on the permanent absentee ballot list when they register to vote or they have responded to one of the two mailings sent by the Office confirming their continued inclusion on the list. If a voter moves out of Fairfax County, their permanent absentee status is removed.

Ms. Hanley observed that many Inactive voters will cast a ballot in November because they only come to the polls for the presidential election. Mr. Udeshi explained that Inactive voters are required to sign an Affirmation of Eligibility declaring that they still reside at the address shown in the pollbook. They will be added to the pollbook by the EO and permitted to vote.

Mr. Shapiro asked for clarification on the statement (pg. 4, para 4) "...ELECT reminded all general registrars that individuals on the list of registered voters may not be challenged because they moved out of a jurisdiction or out of the state." Mr. Henzel explained that ELECT follows a legal process for cancelling the registration of voters who move out of the jurisdiction or out of the state and it does not include the option for registered voters to challenge their eligibility based on relocation.

The following precinct and polling places changes were approved by the Board of Supervisors on June 25, 2024:

- The name of Woodson #1 and Woodson #2 precinct's polling place changed from W. T. Woodson High School to Carter G. Woodson High School.
- The name of Huntley precinct's polling place changed from St. John Mark's Episcopal Church to St. Martin de Porres Episcopal Church.
- The name of Island Pond precinct's polling place changed from Oak Marr Recreation Center to Oakmont Recreation Center.
- Relocation of the polling place for Greenspring precinct from Village Square to the Conference Center.*
- Consolidation of the Hummer and Woodburn precincts.*
- Removal of the Gerry Hyland Governmental Center as a voter satellite office.*

*The Request for Certification of No Objection for the relocation of the Greenspring polling place, the consolidation of the Hummer and Woodburn precincts, and the removal of the Gerry Hyland Governmental Center as a voter satellite office was submitted to the Attorney General on July 12. Approval is expected by late August.

Ms. Hanley corrected the name of the church for Huntley precinct from St. John's to St. Mark's Episcopal Church. She also explained that the public hearing scheduled for July 30, 2024, to correct the address of the polling place for Clifton Town precinct, and to change the name of the Providence Community Center to the Jim Scott Community Center, was cancelled due to an advertising error. This public hearing will be held in December.

The satellite hours of operation for the November General Election remain consistent with past elections:

Fairfax County Government Center

Monday – Friday	8 a.m. to 4:30 p.m.
Saturdays (9/21, 10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

Mount Vernon and North County Governmental Centers

Monday – Friday	1 p.m. to 7 p.m.
Saturdays (9/21, 10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

13 additional locations

Monday – Friday	1 p.m. to 7 p.m.
Saturdays (10/19, 10/26, 11/2)	9 a.m. to 5 p.m.
Sunday (10/27)	1 p.m. to 5 p.m.

Under the Resource Allocation for the November General Election, each precinct will receive ballots for at least 80% of active voters. Ballots for 85% to 100% of active voters for the precincts that had the highest in-person turnout in past presidential elections will be ordered as well as ballots for 85% of active voters for new precincts created because of redistricting. Each precinct will receive three to six Poll Pads, two ExpressVote ballot marking devices, and two DS200 ballot scanners. Each precinct will be assigned 9 to 17 election officers, including two Provisional Specialist officers. They will help the Chief and Assistant Chief by performing administrative duties related to provisional and SDR voters, including verifying each provisional envelope is completed completely and accurately and properly logged.

Ms. Hanley expressed concern about the accuracy of the current resource allocation. She explained that the last two presidential elections were held in different circumstances. In 2020, voters were fearful of coming to the polls because of the pandemic. In 2016, the rules for early voting did not include no-excuse absentee. Redistricting required significant changes to precinct lines so the number of voters per precinct now may not be consistent for predicting the number of voters in the precincts. She noted that in the past when a precinct ran low in ballots, the ballot could be replenished from another precinct if the style was identical. Now results must be reported by precinct, therefore, each precinct has its own distinct style, and the ballots cannot be “shared.” Same-day registration is now available so people not counted in today's registration numbers may come to the precinct to register and vote and will need a ballot. This is likely in precincts with substantial change in residential units, for example areas along the Dulles Corridor and in Tysons, or precincts with new retirement communities, like Woodleigh Chase in Braddock District. She also expressed concern that the University precinct may run low on ballots. George Mason is now the largest university in Virginia, and it will be hard to predict how many students might register and vote on Election Day.

Ms. Hanley moved that staff 1) follow spikes in voter registration including same day registration during early voting at any precinct to ascertain if a ballot order adjustment is warranted; and 2) prepare procedures, including security measures, to send the ballot on demand equipment to any precinct on Election Day that may require additional ballots. If any dramatic change in voter registration numbers occurs by October 15, adjustments to the resource allocation should be made. After discussion, the motion passed by vote of 3-0.

The following is the Logic and Accuracy testing schedule for the November General Election:

Tuesday, September 10 (9:00 a.m.) to September 11 (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA) – Testing and setup of Poll Pads for early voting satellite sites.

Thursday, September 12 (9:00 a.m.) to September 16 (Morrisette Warehouse, 8600 Morrisette Drive, Springfield, VA) – Testing of voting equipment and Ballot on Demand systems for three 45-day early voting satellite sites.

Tuesday, September 24 (9:00 a.m.) to October 11 (Morrisette Warehouse, 8600 Morrisette Drive, Springfield, VA) – Testing of voting equipment and Ballot on Demand systems for the remaining 13 early voting satellite sites and all Election Day polling places.

Wednesday, October 9 (9:00 a.m.) to October 10 (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA, Suite 339) – Testing of voting equipment that will be used to count mail ballots.

Sunday, November 3 (9:00 a.m.) (Fairfax Government Center, 12000 Government Center Parkway, Fairfax, VA, Suite 251) – Testing and setup of all Poll Pads for Election Day.

Approximately 3,700 election officers will be assigned to serve in the precincts for the November General Election. Mr. Henzel asked Mr. Udeshi for his estimation on assignment parity between the two parties. Mr. Udeshi replied that in 2020 the percentage of assigned EOs from the Democratic Party was 55% and the Republican Party 25%. He hopes to improve upon these percentages for this election due to improved availability of EOs from both parties.

Sarah Prowitt resigned as Communications Division Chief effective August 2 to take a position with the federal government in Health and Human Services. Teresa Maza is resigning from her position as Financial Specialist II effective August 23 to accept a promotional opportunity with the county's HR Department. After 13 years, Patricia Ferguson will retire on September 6 from her position as VFOIA Manager. The Board thanked these talented individuals for their dedicated service.

Outreach efforts will include the palm card which advertises important deadlines, as well as satellite voting locations, dates, and times. This resource will be provided at the public libraries, Board of Supervisors' offices, League of Women Voters, etc. The sample ballot mailer is in production with an anticipated distribution date prior to the September 20 start of early voting. This mailing will go out Return Receipt Requested. Any returned mailers with a forwarding address will receive the Office's follow-up address confirmation letter to allow for more prompt action if the voter responds that they no longer reside in Fairfax County.

There were no Electoral Board reports.

Under New Business, Ms. Hanley reported that there is a new legal requirement requiring Electoral Boards to certify that the polling places in their localities meet ADA requirements. In Fairfax County, the rovers completed an accessibility survey for each polling place at either the March Presidential Primary or the June Primaries. Follow-up inspections were conducted for any location not receiving a 100% satisfactory response.

Mr. Henzel made the following motion:

“I move to approve ELECT’s ADA Compliance Confirmation that states all polling places in Fairfax County have been assessed for accessibility using an Americans with Disabilities Act (ADA) checklist provided either by the Virginia Department of Elections (ELECT) or by the U.S. Department of Justice (DOJ). The ADA checklist for each polling place has been filed and will be maintained within the records of the local electoral board in accordance with the Virginia Freedom of Information Act (§2.2-3700 et. seq.). Pursuant to §24.2-310(C), all polling places in Fairfax County are currently compliant with the requirements of the ADA (§42 USC 12132), the Voting Accessibility for the Elderly and Handicapped Act (§52 USC 20102), and the Virginians with Disabilities Act (§51.5-1 et seq.).

The motion passed by a vote of 3-0.

Under New Business, Claims of Non-Citizens Voting, Mr. Henzel said that he had learned that the FCRC Election Integrity Task Force, using publicly available information, had compiled a list of 66 registered voters who had voted, and later were identified by ELECT as likely non-citizens through routine list maintenance. He noted that ELECT says it identifies such voters based on information it receives from sources that include DMV and the federal SAVE (Systematic Alien Verification for Entitlements) program. Local election offices receive instructions from ELECT to send a form to the last known address of these voters to give them an opportunity to affirm their citizenship. If no response is received within 14 days, the voter is removed from the rolls. Mr. Henzel asked staff if this information is accurate, and staff confirmed that all these individuals had voting records. Mr. Henzel commented that his understanding was that many of these individuals are citizens who inadvertently checked the wrong box or did not check any box for the citizenship question on the DMV website. Although the local election offices have “no way of knowing” how the individual answered the DMV citizenship question, he believes ELECT might have more information. He stated that he is uncomfortable assuming that it is “all innocent” and was concerned that it is not clear who has responsibility for investigating to determine whether someone had broken the law. In the light of the Governor’s Executive Order (attached and made a part of this record), he urged the General Registrar to send a communication to the Attorney General of the Commonwealth noting that these cases were flagged and encouraging the Attorney General to use its authority and investigative resources to review them.

Mr. Spicer responded that of the 66 individuals, 17 confirmed their citizenship and re-registered within the 14-day requirement. The remaining 49, however, did not and were removed from the rolls. After consulting with the County Attorney’s Office, Mr. Spicer stated he has a duty to refer non-citizens who have voted and proposed referring the names of these 49 individuals who appear to be non-citizens who voted to the Commonwealth’s Attorney, the Attorney General of Virginia, and to ELECT. To further ensure the integrity of the voter rolls, he proposed developing procedures that would refer Fairfax County’s list on apparent non-citizens who had voted to these three offices monthly. Mr. Shapiro agreed and

commented that when staff receives information that suggests a non-citizen has voted, “we have an obligation to do something other than just take them off the list.” He added that the procedures developed should treat everyone equally who meets the criteria for inclusion on the ‘apparent non-citizen voter’ list. Ms. Hanley remarked that “the law does seem clear that the registrar should refer these 49 to the Commonwealth’s Attorney.”

Mr. Shapiro moved that the General Registrar draft a policy for referral of potentially false claims of citizenship where people have voted, to be presented at the next board meeting. The motion passed by a vote of 3-0.

Mr. Shapiro moved that in conjunction with ELECT, the General Registrar review the Governor’s Executive Order 35 (2024) to draft a plan that includes developing a notice regarding election-related offenses and determining where it can legally be distributed. Mr. Spicer was also to consult with ELECT to learn whether they are developing a uniform approach for all counties, in which case it would not be necessary for Fairfax County to develop its own notice. This draft will be reviewed at the next Board meeting. The motion passed by a vote of 3-0.

Under Public Comments, Ms. Hanley reminded the public that comments are limited to three minutes. The Board may provide the information; however, if more research is required, the Board may defer an answer. The Board may also request a written submission of the comment or inquiry.

Ms. Brim requested that in the Voter Registration section of the General Registrar’s Report, separate categories be created for the NVRA data accounting of the number of voter registrations by discretionary state-designated agencies and third-party voter registration drives. Ms. Brim also requested that going forward, the General Registrar report, based on research, include the number of self-declared non-citizens who have voted. The Board will consider this request after the reviewing the draft policies presented at the next meeting.

Mr. Brandon commented on the higher state-wide rejection rate of returned absentee ballots due to failure to provide the last four digits of the social security number or the year of birth. He hopes there will be more education on how to properly complete an absentee ballot to reduce the number of rejections. Ms. Jones replied that each absentee ballot is sent with a comprehensive set of instructions that includes a screen shot of a properly completed envelope. There is also a cure process for voters to submit any missing information. Mr. Shapiro commented that the Office has an incentive to educate voters because it creates more work on the backend to follow-up on returned absentee ballots with missing information. Ms. Jones added that a video on how to properly complete an absentee ballot will be available on the Office’s website and on Fairfax Votes.

Mr. Brandon mentioned the challenges affecting mail delivery at the Richmond Post Office. Mr. Stewart explained that the postmaster in Fairfax goes above and beyond to ensure that election mail coming through Merrifield is handled efficiently. The Fairfax post office also makes additional trips to the Government Center to ensure the timely delivery of election mail. Additionally, as the November General Election approaches, Office staff will make trips to the post office to pick up election mail.

Mr. Brandon asked about the ease of voting for returning military personnel. Ms. Jones explained that if they received an absentee ballot, they will be marked as an absentee voter. If they return the ballot, they can vote routinely. If not, they can vote provisionally. Ms. Hanley confirmed for Mr. Brandon that although Veteran's Day falls on Monday, the time for certifying the election has been extended three days and is now the second Friday after the election.

Mr. Henzel moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 5:37 p.m.

Attachments

Hon. Katherine K. Hanley, Chairman

Jeffrey K. Shapiro, Vice Chairman

Amb. (ret.) Christopher P. Henzel, Secretary

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